and juvenile minds, if it be such as it ought to be, must combine several excellences not very easy of attainment. Hitherto good works of this kind have been rare. The task of making books for children, has been performed, with comparatively few exceptions, by a very worthless class of writers, mere hireling scribblers, who have been entirely regardless of the great moral purpose of education; or by well meaning, but weak minds, wholly unfit for an employment requiring a rare union of delicacy and judgment. The want of something better adapted to the objects of infant education is now generally felt, and we are gratified to witness a disposition in writers of superior merit, at the present day, particularly females, to furnish them. Much remains to be done. It will be long before all, which is capable of being performed in this department, will be accomplished. We flatter ourselves, however, that the deficiency will not long remain as great as it now is; but that something will be done to meet the demands of the age. We trust that the time is not far distant, when careful parents will no longer be compelled, for want of something better, to subject the minds of their children to the sinister influence of works, the starveling offspring of ignorance and quackery; when the whole mass of ill adapted and senseless productions, which now load the shelves of the nursery, and fill the juvenile cabinet, will be thrown aside, and works of a more unexceptionable cast and higher aim will take their places.

ART. IX.—*Message from the President of the United States, transmitting a Report from the Secretary of State, with Copies of the Correspondence with the Government of France, touching the Claims of American Citizens for Spoliations.* February, 1825.

IN a former number of this Journal, we presented our readers with a sketch of the history of the claims of American citizens on the governments of Naples and of Holland, and of the negotiations of the American government, to procure the liquidation and settlement of those claims. A lucid and instructive account of the claims of our citizens on the government of Denmark has been

published in a contemporary Journal.* We proceed therefore, in the pursuit of the plan originally formed by us, to the consideration of the claims of our citizens on the government of France. These claims, at present, form the subject of our most important controversy with foreign powers. We call it the most important, both because the amount of property involved in it is greater, than is involved in all our other controversies of a similar kind, and because, on the nature of the settlement we may be enabled to make, with France, depends the nature of the settlement we may make with Naples, Holland, and Denmark. When we shall have successfully asserted our claims on France, we shall of course meet with no powerful obstacles, in obtaining justice from the secondary powers; and till we have enforced our rights against the stronger, it would be beneath the dignity of our national character, to assume a lofty and coercive tone, towards the weaker.

It may be necessary to inform some of the younger portion of our readers, precisely in what our claims on France had their origin. It is now twenty years, within a few months, since the famous Berlin decree was promulgated by Napoleon, at the city, whose name it bears. The alleged provocation of this decree was the blockade of the coasts of France and Holland, and of a part of Germany, by the British, and the refusal of the British to permit neutrals to carry on, in a time of war, a trade between the colonies of a belligerent and the mother country, not permitted by the belligerent, in time of peace. These pretensions of the British Government had been strenuously resisted by that of the United States, and formed part of the subjects of the protracted negotiations, first of Mr Monroe, and subsequently of that gentleman and Mr Pinkney. If Napoleon ever entertained the expectation that the government of the United States would be able, through the mild medium of negotiation, to induce the British cabinet to relax from these pretensions, it was not long before he chose to adopt the more violent course of retaliation, and to take the matter into his own hands. Accordingly, on the twentyfirst of November, 1806, the following decree was promulgated at Berlin, with a long preamble which we omit.†

* Since published in a separate form by its author, the Hon. Caleb Cushing of Newburyport.

† The preamble appears without the decree, in Wait's State Papers, VII. 163.

'ART. I. The British islands are declared in a state of blockade.

'ART. II. All commerce and correspondence with the British islands are prohibited. In consequence, letters or packets addressed either to England, or to an Englishman, *or in the English language*, shall not pass through the post office, and shall be seized.

'ART. III. Every subject of England, of what rank or condition soever, who shall be found in the countries occupied by our troops, or by those of our allies, shall be made a prisoner of war.

'ART. IV. All magazines, merchandise, or property whatsoever, belonging to a subject of England, shall be declared lawful prize.

'ART. V. The trade in English merchandise is forbidden; all merchandise belonging to England, or coming from its manufactories or colonies, is declared lawful prize.

'ART. VI. One half of the proceeds of the confiscation of the merchandise and property, declared good prize by the preceding articles, shall be applied to indemnify the merchants for the losses which they have suffered by the capture of merchant vessels, by English cruisers.

'ART. VII. No vessel coming directly from England or the English colonies, or having been there, since the publication of the present decree, shall be received into any port.

'ART. VIII. Every vessel contravening the above clause, by means of a false declaration, shall be seized, and the vessel and cargo confiscated, as if they were English property.

'ART. IX. Our tribunal of prizes at Paris is charged with the definitive adjudication of all the controversies, which may arise within our empire, or in the countries occupied by the French army, relative to the execution of the present decree. Our tribunal of prizes at Milan shall be charged with the definitive adjudication of the said controversies, which may arise within the extent of our kingdom of Italy.

'ART. X. The present decree shall be communicated by our minister of exterior relations, to the kings of Spain, of Naples, of Holland, and of Etruria, and to our allies, whose subjects, like ours, are the victims of the injustice and barbarism of the English maritime laws. Our ministers of exterior relations, of war, of marine, of finances, of justice, and our postmasters general are charged, each in what concerns him, with the execution of this present decree.' *

* Different versions prevailing of this decree, we have adopted that

This decree, as appears on its face, though operating almost exclusively on American commerce, was ostensibly applicable to all nations. Some of its provisions are in direct violation of the law of nations, and of the provisions of the Convention of 1800, then existing between America and France. It may be observed, however, that it subjected to confiscation only such merchandise as was British property, or of the manufacture or produce of Great Britain, or of her colonies. With respect to vessels coming from England, it went no further, than to declare that they should not be received into French ports, and such vessels were, with their cargoes, made liable to confiscation, only in case they should have contravened that provision, by means of a false declaration.* This decree remained for a considerable time comparatively inoperative. It drew from the British government, in the month of January following, a prohibition of the coasting trade from port to port in France, but it attracted, upon the whole, no great attention in America. During the first months after its promulgation, a number of American vessels arrived in France, which had been compelled, on their passage, either by stress of weather or by force, to put into English ports. The question of course arose in France, whether in virtue of the seventh article of the Berlin decree, such vessels were liable to seizure; whether the article was aimed only at vessels, that should go voluntarily to England, or included also such as put in only, by what is called *relâche forcée*. The French ministers, not choosing to decide these questions at once, allowed the cargoes of vessels in this situation to be landed and deposited in the public stores, till the will of the Emperor should be ascertained. The cargoes were also allowed to be delivered to the consignees, on their giving bonds to refund the estimated value, in case of a final decree of condemnation. It was not till the fourth of September, 1807, that the most rigorous construction was given to the seventh article of the Berlin decree, by a circular of the Director General of the Customs; and to this construction a retrospective force appears to have been given, over all the vessels and cargoes, which unfortunately had been awaiting a decision.† About the first of November,

officially communicated to Congress from the department of State, February 19, 1807. See *Wait's State Papers*, vol. v. p. 478. For another version, see *The Diplomacy of the United States*, p. 119.

* Mr Gallatin's Letter to the Baron Pasquier, 9th May, 1820.

† Mr Gallatin's Letter of the 10th of January, 1822, to the Viscount Montmorency.

1807, the Horizon, a vessel owned, we believe, in Boston, was condemned by the Council of Prizes, under the Berlin decree. She had been wrecked on the rocks near Morlaix, in the month of May preceding, and this was the first case of the condemnation of an American vessel under that decree. A spirited remonstrance was made on the occasion by General Armstrong, but without effect.*

On the 11th of November, 1807, and when the effect of the Berlin decree on neutral commerce was ascertained, the first British orders in council were published in alleged retaliation.† As Bonaparte had made the blockade of the French coasts and the revival of the rule of '56 the justification of the Berlin decree, so the orders in council were promptly followed by the Milan decree, bearing date December 11th, 1807. Though somewhat long, we apprehend the reader would wish to have the means of convenient recurrence to it, in this discussion, and we accordingly quote, entire, the official translation of the department of state, omitting, however, the preamble.

'ART. I. Every ship, to whatever nation it may belong, that shall have submitted to be searched by an English ship, or to a voyage to England, or shall have paid any tax whatsoever to the English government, is thereby and for that alone declared to be *denationalized*, to have forfeited the protection of its king, and to have become English property.

'ART. II. Whether the ships thus denationalized by the arbitrary measures of the English government enter into our ports, or those of our allies, or whether they fall into the hands of our ships of war, or our privateers, they are declared to be good and lawful prize.

'ART. III. The British islands are declared to be in a state of blockade, both by land and by sea. Every ship, of whatever nation, or whatsoever the nature of its cargo may be, that sails from the ports of England or those of the English colonies, and of the countries occupied by English troops, and every vessel proceeding to England, or to the English colonies, or to countries occupied by English troops is good and lawful prize, as contrary to the present decree, and may be captured by our ships of war or by our privateers, and adjudged to the captors.

'ART. IV. These measures, which are resorted to only in just retaliation of the barbarous system adopted by England, which assimilates its legislation to that of Algiers, shall cease to have

* Wait's State Papers, vi. 463. † Ibid. vi. 62.

any effect, with respect to all nations, who shall have the firmness to compel the English government to respect their flag. They shall continue to be rigorously in force, as long as that government does not return to the principle of the law of nations, which regulates the relations of civilized states in a state of war. The provisions of the present decree shall be abrogated and null in fact, as soon as the English abide again by the principles of the law of nations, which are also the principles of justice and honor.

'All our ministers are charged with the execution of the present decree, which shall be inserted in the bulletin of the laws.'

Although this decree, like that of Berlin, was nominally applicable to all nations, the chief operation of both was on the United States of America. In consequence of their provisions, an immense quantity of American property was captured and condemned. But these decrees were by no means the limit of the arbitrary and unjust policy pursued by France, toward the United States. There were other acts exclusively directed against our commerce, having the intention, as they had the effect, of sweeping the poor remnant of it from the ocean, exposed, as it was, beneath the frail protection of a pacific neutral, to the tremendous collision of the overgrown powers, that waged the great warfare of the civilized world, and affected to say to us

> 'T is dangerous when the *weaker* nature comes
> Between the pass and fell incensed points
> Of mighty opposites.

To meet the extraordinary state of things, that existed in the world, and to withdraw the American commerce from the grasp of the unprincipled policy of the belligerents, an embargo was laid on all the American ports, by the act of Congress of December, 1807. This measure, designed to be not only one of preservation to our own citizens, but of coercion on the belligerents, was also followed up, by urgent remonstrances, addressed to both of them. They were of course ineffectual and worse than ineffectual, for they seemed to be received with derision. On the 17th of April, 1808, a decree was published at the imperial head quarters of Bayonne, directing the seizure of 'all American vessels, now in the ports of France, or which may come into them hereafter.' The alleged pretence of this decree was, that as, in consequence of the American embargo, no American vessel could be lawfully at sea, there was fair ground

of presumption that all American vessels navigating abroad, were doing it on British account, or in British connexion. This explanation, as ridiculous as it was inadequate and offensive, was in direct contradiction of the notorious fact, that almost every American vessel, which happened to be at sea, when the embargo was laid, remained abroad by order of the owner,* and also to the fact, that many American vessels had sailed in contravention of the embargo; thereby, as was justly urged, by Mr Madison, in a despatch to General Armstrong, contravening our own laws, and incurring the penalties of those laws, but not denationalizing themselves, nor authorizing a seizure by a foreign power.

So severe was the operation of the embargo, on the commercial and agricultural interests of the United States, and so ineffectual had it proved, as an instrument of coercion toward the belligerents, that, by a law of the 1st of March, 1809, the act laying the embargo was repealed in respect to all countries except England and France. By the same law, usually called the Nonintercourse Law, the vessels and merchandise of both England and France were excluded from the American ports, after the twentieth of the following May. It was, however, provided by the same law, that if either France or Great Britain should so revoke or modify her edicts, that they should cease to violate the neutral commerce of the United States, the commercial intercourse of the United States should be renewed with the nation thus revoking or modifying its decrees. On the 29th of April, 1809, this law was communicated by the American minister to the French government. No indication was given by the French government, that it was regarded as a hostile measure. Towards the end of this year, however, orders were given to seize all American vessels, in the ports of France or of countries occupied by the French armies; and after a great many seizures had been made, in consequence of these orders, principally in the ports of Spain and Holland, an imperial decree was issued, bearing date at Rambouillet on the 23rd of March, 1810, confirming the seizures just mentioned; extending the principle of them to all American vessels, which should have entered France, or the dependent countries since May 20th, 1809, and directing the product of the sales, to be paid into the

* Wait's State Papers, vii. 164. Mr Gallatin's Letter to the Duke of Richelieu, 9th of November, 1816.

caisse d'amortissement. The pretence of this 'outrageous measure,' as it is justly called by Mr Gallatin,* was the act of Congress of March 1st, 1809, prohibiting the entry of British and French vessels into our ports. The iniquity of the Rambouillet decree was, that while the American law provided for the remission of the forfeiture, in any case, where the parties were ignorant of the law, the French decree was retrospective in its operation, and extended to American vessels, which had sailed a twelvemonth before its promulgation.

Under these four general decrees, namely, of Berlin and Milan, of Bayonne and Rambouillet, and by various special orders, some of which were never formally communicated to our government, a vast quantity of American property was seized. This may be conveniently classed under two heads, presenting cases somewhat different in their aspect, although equally imperative in the claim for indemnity. The first class is that of property, which has never been condemned; the second, that which underwent the formal adjudication of the prize courts, and was confiscated. For the more distinct apprehension of the nature of these claims, it was directed in the resolution of the House of Representatives of the United States, moved by Mr Everett, that in the schedule to be reported by the Secretary of State, a discrimination should be made between the two classes.

The first class of claims, that is, those for property which has never been condemned, embraces the vessels and cargoes burned at sea, and those sequestered in the ports of France and the dependent nations.

We may dismiss the case of the vessels and cargoes burned at sea, with a single observation of Mr Gallatin to the Duke of Richelieu, in his letter to that minister already cited. 'It is not necessary to make any observations on the destruction of vessels at sea, *your Excellency having already intimated, that the government of France was disposed to make restitution for acts of that nature.*'

The vessels and cargoes sequestered and not condemned, consist principally of such as arrived at Antwerp, in the beginning of 1807, to the number of seven, and being permitted to be landed there, were sequestered and finally sold, by virtue of an order of government of May, 1810; of such as were seized at

* The last cited letter to the Duke of Richelieu.

St Sebastian toward the close of 1809 and in the beginning of 1810, and which were sold in conformity to the Rambouillet decree; and of fourteen vessels, which in the winter of 1809–10, having been driven into Holland, were there seized, and, by virtue of a particular agreement between Holland and France, bearing date March 16th, 1810, put at the disposition of France. In none of these cases was there either trial or condemnation. The vessels and cargoes were simply seized and sold by order of the government, for all whom it might concern, and the proceeds deposited in the public treasury, where in the eye of reason and public law they still remain; and it is left to the government of France, in bestowing on the claimants the poor privilege of a trial, which they have never yet had, to decide whether the seizure was or was not rightful. If it was rightful, the proceeds will of course remain in the French treasury; if not rightful, the French government, having had the use of a part of these funds for about twenty years, will probably think it time to restore them to their lawful owners.

There is one consideration in reference to this sequestered property, which puts the claim to indemnity in a very strong light, and as such is justly stated by the Committee of Foreign Affairs of the House of Representatives, in a Report of May 24th, 1824. It is this; that the property was sequestered, in virtue of an imperial decree, under suspicion of being English property, and to afford an opportunity to ascertain whether it were English property, or *bonâ fide* American property. If the latter (which it is now conceded to have been), it must of course be released. But granting it to be English, it must also be released, or paid for, under the fourth of the additional articles of the treaty of the 30th of May, 1814, between France and Great Britain. By that article, the parties stipulate to release all property put under sequestration, since the year 1792. If therefore the property of our citizens had really been, what it was wrongfully pretended to be, as a ground of seizure at Antwerp, at St Sebastian, and in Holland, it must still have been paid for, by the restored government of France, in virtue of the treaty of 1814. It is well remarked, in reference to this position of the claim, by the Committee of Foreign Affairs, in the the report just alluded to, that 'a singular spectacle will be exhibited, if payment is denied when the motive of the seizure is shown to have been false, or should any doctrine of' the present French government 'place the property of a neutral in a worse

situation than if it had belonged, as was suspected, to an enemy. Such doctrine cannot be advanced by France, unless she intends to instruct other powers, that, in all future wars, in which she may be engaged with a formidable rival, it will be more prudent to be her enemy than her friend.'

There are one or two circumstances of peculiarity, in reference to the Antwerp sequestrations, which merit the attention of the reader, and have been justly deemed by the claimants and by the American government, to form a case deserving of a separate representation to the French government, which they have, accordingly, more than once received. Among the numerous American vessels, which arrived in French ports in the year 1807, prior to the 4th of September, when, as our readers will bear in mind, a rigorous extension was given to the Berlin decree, a considerable number entered the port of Antwerp, after having been compelled to touch in England. Of these vessels, seven came consigned to two American houses, namely, the Bordeaux packet, Helena, North America, and Diamond to the house of Ridgeway; and the Perseverance, Hiram, and Mary to that of Parish. The consignees declined availing themselves of the option, which was offered by the French authorities, at Antwerp, to receive the cargoes, on entering into bond to abide the final decision of the Emperor. They preferred that the cargoes should remain in the custom house stores, subject to that decision. A severe scrutiny took place of the character of the property, which resulted in the satisfactory proof, that it was *bonâ fide* American. That fact, indeed, does not appear to have been questioned. It was, nevertheless, in virtue of imperial orders of the 29th of May, 1809, and 4th of May, 1810 sold, for the benefit of all concerned, and the proceeds eventually paid into the French treasury, where, never having been accounted for, they still are. Now to show that the proceeds of this property are still rightfully due to the American claimants, we mention the following facts. The European consignees of numerous other American vessels, which arrived at Antwerp in the same season, with the seven mentioned, accepted the offer of the French authorities, entered into bonds, and received and sold the cargoes. In no one case, were these bonds exacted by the imperial government; in no case were steps taken to recover the penalty; and in some cases, quoted by Mr Gallatin, they were formally cancelled, in favor of the consignees. This is an admission, on the part of the imperial government of France, that

there was no ground for the confiscation under its own decrees. Again, a small portion of the cargo of one of the seven vessels was taken by the consignee, and sold, and a bond given for its estimated value, and bonds were also given for some of the seven vessels themselves, that they might be sent away. *None of these bonds were ever enforced.*

But perhaps a still more important fact is the following, that indemnity has actually been paid, by the *restored* government of France, for a considerable portion of one of these cargoes. A short time after the arrival of the vessels, the house of Mr Parish sold to Messrs Fillietaz and Company, of Antwerp, two hundred and fiftysix bales of cotton, part of the cargo of the ship Hiram. It being then confidently expected, that the merchandise would be delivered to the parties, the sale was absolute, and at the risk of Mr Fillietaz. He paid the purchase money, received a proper bill of sale, and thus became invested with all the rights of the original shipper, but without a guaranty from him or the consignees. The cotton was, however, not delivered to him by the French custom house officers, but was sold at the same time and in the same manner, as the remainder of the cargoes, and for a sum exceeding four hundred thousand francs. The proceeds, undistinguished from those of the other cargoes, were, in the same manner, and under the same order, paid into the treasury of France. Now mark the difference. The American claimants, backed by all the urgency of their government, have for twenty years been soliciting the repayment of the funds in the treasury of France, arising from the sale of their property, but in vain. Mr Fillietaz, on the other hand, as a subject or resident of Belgium, applied for indemnity to the mixed commission, appointed under the treaties and conventions of Paris. His claim was allowed, and placed in the first class of those liquidated, that of *cautionments* and *deposits*, and he has received, in payment, certificates of five per cent. consolidated French stock, amounting in principal to 495,760 francs, bearing interest from the 22nd of March, 1819, together with 10,726 francs in specie for arrears of interest, after deducting the expenses of the commission and other charges.* So much better are the rights of a Belgian subject, than those of an American citizen!

Passing over many other reflections, on the subject of the

* Mr Gallatin's letter to the Viscount Montmorency, 10th of January, 1822.

sequestered property, and of the vessels and cargoes burned at sea, we proceed to a few remarks on the cases of property condemned, in which we shall do little more, as we could not possibly do better, than follow the outline in Mr Gallatin's excellent letter to the Duke of Richelieu of the 9th of November, 1816.

It is, in the first place, to be observed, that every condemnation under the Berlin and Milan decrees, however regular in its forms, was an infraction of the convention of the 30th of September, 1800, negotiated in the consulship of Napoleon, till the 31st of July, 1809, when that convention expired by its own limitation. It was expressly stipulated in the twelfth, thirteenth, and fourteenth articles of that convention, that the citizens of either country might sail, with their ships and merchandise (contraband goods excepted), from any port whatever to any port of the enemy of the other, and from a port of such enemy either to a neutral port or to another port of the enemy, unless such port should be *actually* blockaded; that a vessel sailing for an enemy's port, without knowing that the same was blockaded, should be turned away, and should not be detained, nor her cargo confiscated; that implements and munitions of war should alone be considered contraband of war; and that free ships should make free goods, in case of an enemy's property on board the ships belonging to the citizens of either country In violation of all these stipulated rights and principles, the French decrees not only declared the British islands in a state of blockade, although it was not pretended that they were actually blockaded, but they made liable to capture and condemnation all American (as well as all other neutral) vessels, sailing on the high seas, from or to an English port, or even, which might have been visited by an English vessel, as well as every species of merchandise belonging to an English subject or of English origin. The plea of retaliation, which was not wholly unfounded in point of fact, could of course furnish France with no justification for violating the faith of treaties. The plea, that the encroachments of England on our neutral rights were not resisted, but were acquiesced in by the United States, was as offensive in spirit as it was false in fact. Nothing but the contemporaneous injuries, which we received from the French government, prevented a declaration of war against England, at least three years before it took place.

In the next place, the vessels of the United States, which were condemned, under the Berlin and Milan decrees, were often condemned, by what were called 'imperial decisions,' and

not by the acts of prize courts. This circumstance, in substance, places these cases on a level with those not condemned at all. The law of nations guaranties a fair trial to the neutral, who is so unfortunate as to fall into the hands of a belligerent, under the pretence of violating the laws of war. Not only is this the right of the neutral by the law of nations, but it was expressly stipulated by the twentysecond article of the convention of 1800. This convention remained in force till the end of July, 1809. It was even a right under the imperial decrees themselves. But of twentyseven vessels condemned by 'imperial decisions' of the kind alluded to, which had been reported to Mr Gallatin, eighteen had been seized or captured before the expiration of the convention. Their condemnation by 'imperial decisions,' was therefore a violation, not only of the law of nations, but of the provisions of the convention of 1800, and of the Berlin and Milan decrees themselves. Further, in cases where a trial was nominally had, there were several, in which the decisions of the council of prizes took place, without the observance of those forms, intended to protect the interest of the neutral; without giving the parties time to produce their evidence; without an examination of the ship's papers. By one decision of the Council of Prizes, dated the 10th of September, 1811, six vessels are thus summarily condemned at once.

Another iniquitous operation of the decrees and orders, above enumerated, was their retrospective force. This was *expressly* given to some of them, as for instance the Rambouillet decree; and that of Milan was also often made to act retrospectively. Vessels were condemned, not only which had sailed from America, before tidings of the decrees had arrived, but often, before they had been proclaimed. Such was the case of the Fame, belonging to a citizen of Boston, and made the subject of a memorial to the House of Representatives the last winter; which sailed from Boston a few days only after the date of the Milan decree, bound to Marseilles, was spoken a few leagues off that place, by an English frigate, was presently brought to by a French armed ship, and for having been thus spoken, was condemned.

With reference to the memorable juggle of the repeal of the Berlin and Milan decrees, great injustice was done to our citizens. It was announced by the French government to Mr Armstrong, and afterwards provided in a decree bearing date 28th of April, 1811, that the Berlin and Milan decrees should be without operation, as respects American vessels, from the

first of November, 1810. Nevertheless, of vessels seized or captured before that day, but not decided upon, fortyeight were subsequently condemned by the Council of Prizes, and by imperial decisions; twentynine before the twentyeighth of April, and nineteen after.

In addition to all these circumstances, several condemnations took place under frivolous pretexts, either after November 1st, 1810; or in cases not embraced in the general decrees; on the ground of alleged irregularity in the certificates of origin, or other ship's papers; suspected convoy by a British force; mutiny; or intention to remit the proceeds of sales through England.*

Such, in brief, is the nature of the acts, under which the claims of American citizens against the French government have their origin. We now proceed to relate (and we must do it most briefly) the history of the negotiations for indemnity, in which the government has been engaged, under all its administrations, since the time that the injuries were committed.

In the general instructions given to Mr Barlow, on the twentysixth of July, 1811, by Mr Monroe, then Secretary of State, the first subject to which the attention of Mr Barlow is called, is the 'claims on France, which it is expected that her government will satisfy to their full extent, without delay.' † In a letter of Mr Barlow to the duke of Bassano, of the tenth of November, 1811, the restitution of the American property remaining in sequestration, and indemnity for that confiscated and consumed, were demanded by the American minister. An answer was returned to this letter, by the duke of Bassano, in a note dated December 27th, 1811, in which no notice is taken of the subject of indemnities. Mr Barlow, immediately on the commencement of his negotiations, endeavored to bring the French government to the conclusion of a commercial treaty. In his *projet* of the treaty, no provision was made for indemnity, and on this subject he thus expresses himself, in a letter to the Secretary of State, dated April 22d, 1812.

'It really appeared to me, that the advantages of such a treaty as I have sketched, would be very great, and especially if it could be concluded soon. It is true, that our claims of indemnity for past spoliations should be heard, examined, and satisfied, which

* Mr Gallatin's Letter to the Duke of Richelieu, of the ninth of November, 1816.

† Wait's State Papers, viii, 324.

operation should precede the new treaty, or go hand in hand with it. This is a dull work, hard to begin, and difficult to pursue. I urged it a long time, without the effect even of an oral answer. But lately they have consented to give it a discussion, and the minister assures me that something shall be done, to silence the complaints, on principles that ought to be satisfactory.' *

In his Message to Congress, in its extraordinary session of June, 1812, and on the first day of that month, Mr Madison, after recapitulating the causes of complaint against Great Britain, expresses himself in the following terms, on the subject of the causes of complaint against the other great power.

'I proceed to remark, that the communications last made to Congress, on the subject of our relations with France, will have shown, that, since the revocation of her decrees as they violated the neutral rights of the United States, her government has authorized illegal captures by its privateers and public ships; and that other outrages have been practised on our vessels and our citizens. It will have been seen also, that no indemnity had been provided, nor satisfactorily pledged, for the extensive spoliations committed under the violent and retrospective orders of the French government, against the property of our citizens, seized within the jurisdiction of France. I abstain, at this time, from recommending to the consideration of Congress definitive measures with respect to that nation, in the expectation that the result of unclosed discussions, between our minister plenipotentiary at Paris, and the French government, will speedily enable Congress to decide, with greater advantage, on the course due to the rights, the interests, and the honor of our country.'

On the eleventh of October, 1812, the duke of Bassano invited Mr Barlow to Wilna, to prosecute, at that place, the negotiations begun at Paris; but the death of the American minister, on his journey through Poland, defeated the object of the invitation. On the twentyseventh of July, Mr Crawford informed the duke of Bassano, then at Dresden, of his arrival in Paris as the successor of Mr Barlow; but the absence of Napoleon, and the disastrous events of the war, prevented the prosecution of his mission. An ineffectual attempt was made by Mr Crawford to engage the French government in negotiation, in the month of December, 1813; and after this period the distracted state of affairs occasioned an entire cessation of all attempts to settle or even discuss our relations with France.

* Wait's State Papers, viii. 361.

Peace was at length restored, and with it the edifying spectacle was exhibited to the world, of a desire, on the part of France, to discharge her vast arrears to the other nations of the earth. The United States maintained a modest and considerate distance, and kept aloof during the first rush for indemnification. Our government was well apprized of the vast resources of France; it knew that a few years would put her in a condition to satisfy all the just demands on her treasury, and it took pleasure in giving a proof of patience in seeking redress, as it had given one of forbearance in enduring injuries.

At length on the fifteenth of April, 1816, Mr Gallatin was furnished with his general instructions as minister to France. In these instructions, Mr Monroe, then Secretary of State, thus expresses himself on the subject in hand.

'Cherishing these sentiments toward the French nation, under all the governments that have existed there, it has not been less a cause of surprise than of regret, that a corresponding disposition has not at all times been entertained by the French government towards the United States. The history of the last ten years is replete with wrongs received from that government, for which no justifiable pretext can be assigned. The property wrested, in that space of time, from our citizens, is of great value, for which reparation has not been obtained. These injuries were received under the administration of the late Emperor of France, on whom the demand of indemnity was incessantly made, while he was in power. Under the sensibility thereby excited and the failure to obtain justice, the relations of the two countries were much affected. The disorder, which has of late existed in France, has prevented a repetition of the demand; but now that the government appears to be settled, it is due to our citizens, who were so unjustly plundered, to present their claim anew to the French government.

'A gross sum will be received, in satisfaction of the whole claim, if the liquidation and payment of every claim founded on just principles, to be established, cannot be obtained.'

Mr Gallatin was commissioned to negotiate a separate convention on the subject, in case the king of France should prefer that mode of adjusting it.

The investigations and researches necessary to present this important matter to the French government, in an imposing light, were necessarily a work of considerable time. On the ninth of November, 1816, Mr Gallatin addressed a letter to

the Duke of Richelieu, in which the entire subject is spread out in a very masterly manner. To this letter we have already more than once referred. After briefly enumerating the decrees, under which the commerce of all neutral nations had suffered, and refuting the arguments, by which the French minister had sought, in previous conversations, to evade the necessity of indemnifying the citizens of the United States, (arguments of too slight a texture to need our notice here,) and after specifying those decrees exclusively confined to the United States, such as that of Bayonne, and that of Rambouillet, Mr Gallatin considers the claims under the twofold distinction of those for property not condemned, and those for property condemned. We have already stated, principally from his satisfactory sketch, the considerations applying respectively to each. In conclusion, Mr Gallatin recommends to the French minister, the establishment of a joint commission, or commissions, to examine and liquidate the just claims of various kinds, of the citizens of the United States, for indemnity.

Having on the twentysixth of December received no answer to this note, Mr Gallatin requested an interview with the Duke of Richelieu, with a view to a personal explanation on the subject. After an interval of three weeks, the Duke of Richelieu appointed the twentieth of January for this purpose. The interview accordingly took place. In the despatches of Mr Gallatin the following brief account of it is given.

'I requested that he [the Duke] would proceed to state, what he had concluded to offer, in answer to the basis proposed in my note of the ninth of November. He said that his offer would fall very far short of our demands; that he would not go beyond an indemnity for vessels burnt at sea, and for those the proceeds of which had been only sequestered and deposited in the *caisse d'amortissement*. He added that he would make his proposal in writing, and that this would not be attended with much delay.'

To this suggestion, Mr Gallatin replied, that if the United States should think it proper (which he could not promise) to accept an indemnity for certain classes only of the claims, it was not to be construed into an abandonment of the other just demands of their citizens.

This promise of the Duke of Richelieu to make a written proposal to Mr Gallatin was not kept. On the contrary, after a delay of about three months, Mr Gallatin was informed by the Duke that he had determined not to make him a written proposal;

and gave as the only reason for declining to enter upon the subject, that the claims of the European powers on France were of so 'frightful an amount,' that the king's ministers could not dare propose any augmentation of them, in the way of an indemnity to the American claimants. Thus ended the first effort to obtain justice. It may be added, that in the month of July, 1817, the Duke of Richelieu stated to Mr Gallatin,

'That he wished it to be clearly understood, that the postponement of our claims for spoliations was not a rejection; that a portion of them was considered as founded in justice; that he was not authorized to commit his Majesty's government, by any positive promise; but that it was their intention to make an arrangement, for the discharge of our just demands, as soon as they were extricated from their present embarrassments. He still persisted, however, in his former ground, that they could not at present recognise the debt, nor adjust its amount.'

In announcing, in the month of April, 1818, to the Chamber of Deputies, the conclusion of a convention of liquidation with foreign states, the Duke of Richelieu apprized the Chamber that, by this arrangement, France was liberated from all her obligations toward *European* powers. The adoption of this phraseology confirmed the hope that the claims of America were not intended to be shut out from eventual allowance. It was adopted in pursuance of a demand of Mr Gallatin to that effect.

On the eleventh of February, 1819, the negotiation was renewed by Mr Gallatin, in compliance with instructions from the government of the United States, and in reference specifically to the Antwerp cases, which we have already described, and to which Mr Gallatin was directed particularly to call the attention of the French government. This he did, by transmitting to the Marquis Dessolle, then minister of foreign affairs, a memorial of Mr David Parish, the consignee of three of the vessels in question, backed by a brief but satisfactory statement from Mr Gallatin himself. No answer to the letter of Mr Gallatin appears among the documents, in the correspondence communicated to Congress in February, 1824, but a letter was addressed to Mr Parish, by the Baron Louis, minister of finance, to whose department the memorial had been referred. This letter unfortunately furnishes proof, that the French minister, its author, had informed himself neither as to the provisions nor penalty of the Berlin decree, nor as to the mode, in which

the proceeds of the cargoes sequestered were disposed of. The fallacies in Baron Louis's statement are indicated by Mr Gallatin, in a letter to his own government of the third of July, 1819; but it does not appear that the correspondence was farther pursued with the government of France at this juncture, and thus ended the second movement in this negotiation.

In the summer of 1820, a third vigorous effort was made by Mr Gallatin to bring the French government to a disposition to terminate this vexatious controversy, by an amicable arrangement. On the ninth of June, 1818, he had addressed to the Duke of Richelieu a short note, inviting his attention to the cases of the *Dolly* and the *Telegraph*, two vessels which were burned at sea, in November and December, 1811, by the French frigates, La Méduse and La Nymphe, for alleged contravention of the Berlin and Milan decrees. The parties injured by these acts of violence appealed to the proper French tribunal; their remonstrance was seconded by Mr Barlow, and the suit was continued, in the regular order of procedure, till, in the commencement of the year 1820, it was decided by the council of state against the claimants.

The ground of this decision is such as would strike the American people with equal astonishment and indignation, could it be presented alone, in its naked deformity, to their notice. This ground is, that the cammanders of the French frigates could not know in November, 1811, that the Berlin and Milan decrees were repealed, because this repeal took place by virtue of a decree bearing date indeed in March, 1811, but first made public in May, 1812. We pass over the effrontery, for we know not by what milder name to call it, of making the repeal of the Berlin and Milan decrees to date from May, 1812, when, notwithstanding the caprice and irregularity which marked the proceedings of the government of Napoleon on this subject, the whole tenure of the negotiations with France, at that period, shows that they were not merely in name but in fact revoked, as far as concerns American vessels, from November 1810. We pass over this, because every thing else sinks into insignificance, compared with the fact, that the French Council of State, in 1820, sanctions the burning of American vessels under the Berlin and Milan decrees. It is proper that the American people should definitively understand, that, beneath all the evasions and polite excuses, by which the French government, since the restoration, has parried the payment of our claims, lies hid a determination

to enforce the validity and legality of the Berlin and Milan decrees. As is justly observed by Mr Gallatin, however, the right of the owners of the Dolly and Telegraph to indemnification does not rest on their establishing these decrees to be an infraction of the law of nations, or of treaty stipulations with the United States, but on the far simpler fact, that, at the time of the destruction of the vessels, these decrees had, as respects America, been revoked. This question is argued with great ability, in a letter of Mr Gallatin to the Baron Pasquier, minister of foreign affairs, dated the fifteenth of March, 1820. This remonstrance the Baron took the very unusual course of referring to the minister of justice, instead of considering it, in his own capacity, as the organ of the political relations of the country. After this reference, we hear no more of it.

In the summer of 1820, another attempt was also made by Mr Gallatin, on the subject of the Antwerp cases. In a letter to the Baron Pasquier, of the ninth of May, 1820, which has been already cited, in the course of this article, a brief history of those cases is given. No reply appears to this letter among the documents communicated to Congress in 1824, and none, we presume, was ever made. On the thirtyfirst of October, 1821, Mr Gallatin addressed the Baron Pasquier, on behalf of Mr Richard Faxon, a citizen of Boston, whose property was seized by the French at Santander, in 1812, and whose appeal to the Board of Finances had lately been dismissed. No reply of the French government appears to this remonstrance.

Meantime another change had taken place in the French ministry, and the Viscount Montmorency, who now held the port folio of foreign affairs, being supposed more favorably inclined to our citizens, on the question of indemnity, Mr Gallatin addressed him on the tenth of January, 1822, on the subject of the Antwerp cases. In this letter, from which we have derived the brief outline of these cases, given in the former part of these remarks, the American minister pursues the discussion with a detail of facts, and an array of argument, truly imposing. He concludes this masterly statement with the following dignified appeal.

'I beg leave to apply not only for that payment, but also for a speedy decision. The United States had, from the most friendly motives, yielded to the reluctance to take up the subject of American claims, which was evinced [by France] in 1817. The objection arising from the state of the finances and from the enor-

mous amount of the demands pressing, at that time, on the resources of France, has now happily ceased to exist. Time amply sufficient has meanwhile been taken for every possible investigation of this claim. The parties have already experienced most grievous losses, from the long detention of so large an amount of property. They should not be tortured by further vexatious delays. Justice when too tardy often fails of its object. When it is known, as in this case, that such is the nature of the claim, that it will be ultimately paid, intriguing speculators are never wanting, who will try to take advantage of the distance and of the necessities of the claimants, to purchase their rights at a depreciated rate. Such attempts, which even when not actually tainted, can never avoid a suspicion of corruption, it has been my duty to repel, and heretofore with success. I have told the parties to listen to no proposals, to reject all indirect interference; that their claim was indisputable and must necessarily be allowed. We employ to attain that object no other but direct means, no weapons but those of argument. I trust that they will not have been used in vain, when the appeal is made to your known loyalty, to his Majesty's high sense of justice, to those principles of good faith in discharging the obligations of the state, which in every instance, but that of the American claims, have uniformly distinguished his government.'

The manly and powerful argument, of which we have here presented the closing sentences, seems to have had an effect on the mind of the Viscount Montmorency. In a conference between that minister and Mr Gallatin, about a fortnight after the sending of this letter, the Viscount stated frankly, that, though he could not answer for his colleagues, he was himself struck with the justice of the claims, in the Antwerp cases, and regretted they had not been paid in 1819. In this conference, Mr Gallatin mentioned what he calls 'an aggravating and most extravagant circumstance,' and what we take the liberty to pronounce an unparalleled and most outrageous one, that notwithstanding his repeated applications to the government, during a period of six years, he had not been able to obtain redress in one single instance, and that with respect to the applications, relative to injuries sustained under Bonaparte's government, he had not only failed of obtaining redress, *but he had not even been honored with an answer!*

It is in the report of this interview, that we find the first mention, in the papers communicated to Congress in 1824, of the commercial difficulties, existing between France and America,

as an obstacle to the settlement of the claims for indemnity. A controversy, as our readers all doubtless remember, sprang up in 1817, between the two governments, in consequence of a heavy tonnage duty imposed by the French government on foreign vessels entering the ports of France, and the retaliatory duty laid on French vessels, in the ports of the United States. The perplexed negotiation, growing out of this policy, was, at the instance of the French ministry, transferred from Paris to Washington, and there carried on between M. Hyde de Neuville and Mr Adams. This negotiation resulted in the convention of 1822; but shortly before that convention was concluded, it seems suddenly to have occurred to the French ministry, all other pretexts for delay in the liquidation of the claims being exhausted, that a new one could be drawn from this commercial controversy.

Accordingly in the conference between Mr Gallatin and the Viscount Montmorency just referred to, an intimation appears to have been given by the French minister, that the commercial dispute between the countries was a subject of more pressing importance, and ought to be first adjusted. Mr Gallatin very justly met this suggestion, by the remark, that the commercial arrangements of the two countries were a matter of convenience and policy, in which the parties were severally free to take what course their interest dictated; while the indemnity was a matter of right, long prior in time, and totally distinct in character; and that the claim of our citizens to justice ought not to be made contingent on any thing else.

Finding in the course of several conversations with the Viscount Montmorency, that, although that minister was apparently well disposed to the claim, objections appeared to exist in the department of finance, Mr Gallatin asked the permission of the Viscount, to confer with M. de Villèle, the minister of finance, on the subject. He accordingly had an interview with M. de Villèle on the twentysecond of April, 1822. He found that the minister of finance had but a general knowledge of the facts of the case, and that he had not read Mr Gallatin's elaborate exposition of the tenth of January, 1822. But after stating the difficulties of a liquidation and payment of the claims, arising from the exhaustion of the country, he added, 'that the only way to render the payment palatable was, that it should be accompanied by the grateful information that our commercial difficulties were arranged in a satisfactory manner.'

On the third of May, 1822, Mr Gallatin again addressed a short letter to the Viscount Montmorency. We quote the first sentences of it.

'I had the honor on the tenth of January last, to address to your Excellency a note relative to the American cargoes sequestered at Antwerp. But although the conversations I have since had the honor to have with your Excellency on that subject, had led me to hope that there was a disposition to render a tardy justice to the claimants, *the note still remains unanswered.*

'It is my duty also to remind your Excellency, that *all the former notes*, which I have had the honor to address to his Majesty's ministers, either with respect to that reclamation or, generally, on the subject of the American claims, and particularly the note of the ninth of November, 1816, *have shared the same fate.* That on a subject so important, no official answer should, for such a length of time, have been given to the earnest and repeated applications of a friendly power; that where favors are not asked, but justice is demanded, there should have been such a tacit perseverance, in avoiding even to discuss the question, must be allowed to be a most uncommon proceeding in the intercourse between independent nations.'

On the eighteenth of the month, Mr Gallatin had an interview with the Viscount Montmorency, in which the latter dwelt principally on the subject of the mode, in which payment should be made for the claims, thereby seeming to admit, that they ought and should be paid. He added, however, that his colleagues in the council of ministers were unwilling to proceed, till they should hear from Washington, that the commercial difficulties were arranged. The same suggestions in substance formed the subject of an official note of some fifteen or twenty lines, dated on the first of June, 1822, which was literally extorted from the Viscount Montmorency, by the importunity of Mr Gallatin. To this note of the Viscount, Mr Gallatin replied in a cogent letter, setting forth the incongruity of the two subjects thus forced into connexion by the French government. The tenor of the letter may be inferred from the following pithy observation, at its commencement.

'It is satisfactory to find that the unfavorable suggestions heretofore made on that subject [the American claims] are no longer alluded to, and that the *only* reason assigned for its postponement *is foreign to the merits of the claim.* I had expected no less from the justice of his Majesty's government. But this new delay is as

vexatious, as unexpected; and the grounds on which it is placed appear to be altogether untenable.'

At length, in the summer of 1822, the convention was concluded at Washington. On the seventeenth of August, Mr Gallatin reminded the Viscount Montmorency of this fact, and on the thirtyfirst following, made the same intimation to M. de Villèle. Now then, no doubt, the long deferred hope is to be fulfilled; now the property of the American citizen, which has lain for sixteen years in the treasury of France, will be paid back to its languishing owners; now, at least, the French government will condescend to engage in the discussion of the subject. Let us hear M. de Villèle on the subject, then filling provisionally the ministry of foreign affairs.

'I had yesterday,' says Mr Gallatin, in a letter to the Secretary of State of the twentyfourth of September, 1822, 'a conference with M. de Villèle, on the subject of our claims. He expressed his wish that a general arrangement might take place, embracing all the subjects of discussion, between the two countries. He stated those to be, the reclamations of the United States for spoliations on their trade; those of France, on account of Beaumarchais' claim; and of the vessels captured on the coast of Africa; and *the question arising under the Louisiana treaty;* and asked whether I was prepared to negotiate upon all these points?

'I answered that I was ready to discuss them all, but that I must object to uniting the Louisiana question to that of claims for indemnity, as they were essentially distinct; and as I thought, after all that had passed, we had a right to expect that no further obstacle should be thrown in the way of the discussion of our claims, by connecting it with subjects foreign to them.'

On the sixth of November, M. de Villèle addressed a letter to Mr Gallatin, formally proposing to open a negotiation on all the points in controversy between the two countries, 'especially in what concerns the duties received in Louisiana on the French commerce, contrary to the tenor of the eighth article of the treaty of cession.'

To this proposal Mr Gallatin replied in a few days, in a vigorous remonstrance, setting forth the injustice of delaying still longer the settlement of private claims, acknowledged to be just, and so long and injuriously postponed, by connecting the question of their liquidation, with this newly started political controversy. To this remonstrance, M. de Villèle returned a peremp-

tory answer, insisting on a joint negotiation, on all the subjects in controversy. Mr Gallatin, in making known this fact to the Secretary of State, remarks; 'The object is too obvious, to require any comments, on my part, and this final decision leaves me no other course, than to refer the whole to my Government.'

And here, as a new, serious, and unexpected obstacle was thrown in the way of the claimants, it may be proper to state distinctly, but briefly, the nature of the pretension on the part of the French government, from which this obstacle arises.

By the eighth article of the convention ceding Louisiana to the United States, it was stipulated that the ships of France should for ever be treated upon the footing of the most favored nation, in the ports of Louisiana.

In consequence of the liberal proffer, made by the United States, to all governments, that may choose to accept it, the vessels of certain foreign nations, particularly Great Britain, are now treated in the ports of the United States, including those of Louisiana among the rest, on the same footing as American vessels, *in consideration*, that American vessels are treated in the ports of those nations, respectively, on the same footing as their own vessels. Although France is *not* one of the nations, that chooses to reciprocate this policy, she nevertheless requires that French vessels should, by virtue of the eighth article of the Louisiana convention, be treated in the ports of Louisiana on the same footing with the vessels of those nations, without allowing, on her part, the consideration or reciprocal condition, on which those vessels are thus treated. This is the French claim.

The justice of this claim of course depends on the understanding of what is implied in 'the most favored nation.' The United States contend, that the right to be treated on the footing of 'the most favored nation,' when not otherwise defined, and when expressed only in those words, is the right of being entitled to that treatment, gratuitously, if such nation enjoys it gratuitously, and on paying the same equivalent, if it has been granted in consideration of an equivalent. The article can have no other meaning, for this single and satisfactory reason, that, if French vessels were allowed to receive gratuitously the same treatment, which those of certain other nations purchase by an equivalent, the French would be treated not *as* the most favored nation, but *more favorably* than any other. In fact, it is incorrect, in the use of language, to speak of that treatment, under the name of a favor, which is mere matter of reciprocity, for

which an equivalent has been paid, which is no more a matter of favor than any other bargain.

Such is the substance of the controversy relative to the interpretation of the eighth article of the Louisiana cession, and with which the French ministry deem it consistent with honor and good faith to clog the liquidation of private claims, which are allowed to be founded in justice. The French ministry, having at the close of 1822, again undergone a change, Mr Gallatin, on the twentyseventh of February, 1823, addressed a letter to the Viscount de Chateaubriand, now the minister for foreign affairs, in which the unreasonableness of this new ground of delay is ably stated; and this letter closes the correspondence on this subject, communicated to Congress in 1824, and is the last that proceeded from the pen of Mr Gallatin in the negotiation. It may not be improper to observe, that the records of our diplomacy do not contain a series of letters more honorable to the ability of their author, than those of Mr Gallatin.

The negotiation was taken up by Mr Sheldon, the American Chargé d'Affaires, after the departure of Mr Gallatin, and by Mr Brown, our present minister to Paris, at the point where it was dropped by Mr Gallatin. Their correspondence with the French ministry was communicated to the House of Representatives in December, 1824. Our limits do not permit us to give an analysis of it. In a collection of documents transmitted to Congress in February, 1825, containing the correspondence of Mr Adams with M. Hyde de Neuville, on the subject of this eighth article, is a letter of Mr Brown to the Secretary of State, containing an account of a conference with the new minister for foreign affairs, the Baron Damas. The Baron gives the usual reason for not then entering on the subject, that he had been so short a time in office, that he did not know its merits. We rejoice that a plea, so little creditable to the executive functionaries of any government, no where appears on the part of the officers of our own. The subsequent efforts of Mr Brown have been attended with no happier effects than those made by Mr. Gallatin, in the conduct of the negotiation.

To enter at large into the discussion of the eighth article of the Louisiana treaty would carry us beyond our limits. We will therefore close this article, with a few general reflections.

The claims on France are highly important, in reference to the amount of property involved in them. This amount has no doubt been much exaggerated; our own opinion of it has fluc-

tuated, as various data for forming an estimate, have, at different times, suggested themselves to us. We have seen it carried as high as fifty millions, and brought as low as eight. A part of this diversity no doubt arises from different principles of making the appraisal. By one, the value of a vessel and cargo is estimated at what would have been their worth at a good market, and interest is computed on this amount. By another, the loss is stated at what was actually destroyed, without interest. Under the Florida treaty, losses, we believe, to the amount of about forty millions were stated to the commissioners, and a little over five millions were allowed by them. While the amount fairly due to our citizens from France is unquestionably very great, it is their interest not unduly to swell it.

Secondly, we observe that the payment of these claims is due to the national honor. Those acts, which form the groundwork of the claims, were also gross invasions of national right and high handed outrages upon us, as an independent people. Had not the other belligerent, by the same outrages, connected with injuries more keenly irritating, led the government to select her first, the treatment we had experienced from France would unquestionably have resulted in a war. There were many of those most decided in the policy of war with England, who would have been equally willing to declare war against France; and it was perhaps the unanimous sense of the nation, that there was cause of war against both countries. War was declared against England; and by that extreme remedy, our accounts against that country were wiped out. The injuries done us by France, injuries not merely involving the loss of a vast amount of property, but touching the national honor so nearly and deeply, as to be acknowledged on all sides to be a just cause of war, are as yet unatoned for. It is true, the government of France has changed hands; and this circumstance produces a very different state of feeling on the subject, and somewhat modifies the question as to remedy. But if the restored government refuses to make reparation for the injuries of its predecessor, if it excepts us, as it has hitherto done, from the compensation it has made to all other states, in the like circumstances; if it even refuses to allow to our merchants, citizens of a state always friendly, those claims for sequestered property, which had it been that of the enemy would have been restored or paid for; if, finally, her tribunals still proceed to condemn property under the oppressive decrees, in cases not till now adjudicated, then

we say, the present government of France sanctions and adopts the policy of Napoleon, and the question of redress remains what it would have been, had he continued to reign.

The payment by France of the claims of our merchants would be no unexampled stretch of liberality, but an act of justice, such as was promptly rendered by England in 1796, and extorted from Spain, by the late Florida treaty. That entire province, territorially of immense value to the United States, was ceded to us, principally as an indemnity for our merchants. Under the commission in England for liquidating the claims of our merchants, subsequent to the conclusion of Jay's treaty, twelve hundred thousand pounds sterling, or nearly five millions and a half of dollars, were allowed and paid. These precedents would take away all appearance of submission from the act of the French government, in satisfying the claims of American citizens; and we really see no reason why a less rigorous measure of justice should be expected from her, than from Spain and England.

Finally, we apprehend a mistaken impression prevails, in this country, as to the plea, on which France evades this act of justice. We believe it to be the common opinion, that the present government of France claims not to be bound to make reparation for the acts of the late government. Though it is true that loose suggestions to this effect, were at first dropped by the French ministers, going rather to the hardness of the case than the want of obligation, yet we cannot find that this plea was ever seriously and formally insisted upon. On the contrary, different parts of the claim have been allowed to be just, by successive French ministers; and no part distinctly maintained not to be so. The Duke of Richelieu was willing to make compensation for vessels destroyed at sea, and the Viscount Montmorency thought the Antwerp claimants entitled to indemnification. There is some appearance of an attempt to maintain the validity of the Berlin and Milan decrees, which, however, would undoubtedly be dissipated, on a very short illustration of their inconsistency with the provisions of the convention of 1800, and with the principles of the law of nations. And even should their validity be maintained by France (admitted by the United States it never will be), the number of cases fairly and regularly condemned under them, is the smallest part of those, for which compensation is asked. The greatest havoc took place, under their retrospective interpretation, under the decrees of Bayonne and

Rambouillet, and by means of extrajudicial acts of the government.

But any general pretension, that the present government of France is not bound by the acts of the former government is effectually abandoned, in setting up the very cause of delay which now impedes the liquidation of the claims. Advantages claimed by France, and refused by the United States, under the Louisiana treaty, are made the pretence of withholding indemnification from our citizens. Now the acquisition of Louisiana from Spain, and its cession to the United States, were the acts of Napoleon. This province formed no part of France, when the Bourbons were forced to leave the throne. Its acquisition and its transfer were solely the work of Napoleon. How then could the government of France insist pertinaciously on the enjoyment of privileges alleged to be secured to it by one of his acts; and pretend to hold itself not responsible for others. No such pretension is, in fact, set up; and in the words of the President of the United States, at the opening of the last session of Congress, 'the justice of these claims has not been, as it cannot be, denied.' The first plea of the French government was for time. France was stated to be overwhelmed, by the pressure of the late enemies of Napoleon. The United States generously forbore to press their demands, till the European powers had asked all they wished, and obtained all they asked. We then modestly put in our pretensions, and were told there was a tonnage question, which must first be settled. The convention of commerce is negotiated. We again mentioned the claims, and were required first to adjust the eighth article of the Louisiana convention. And in this posture the matter now stands.

We undertake not to foresee with what success negotiation can be any further pursued on this subject. Our own opinion has long been that Congress alone can negotiate upon it, and that in a more operative way than the exchange of diplomatic notes. We rely, however, on the prudence and spirit of the Executive, and doubt not the honor of the country, and the rights of our fellow citizens, will be duly and effectually asserted. Meantime it would appear, that a serious consideration of the subject is contemplated by Congress. The resolution, adopted by the House of Representatives towards the close of the last session, invites the citizens of the United States to report a statement of their claims on all foreign governments to the depart-

ment of State, and requires that department to submit to the House at its next session, a schedule of all the cases, which shall have been thus reported. With such a statement before Congress and the people, we apprehend it will not be easy to refrain from some energetic steps for procuring redress.

ART. X.—1. *Remarks, critical and historical, on an Article in the Fortyseventh Number of the North American Review, relating to Count Pulaski; addressed to the Readers of the North American Review.* By the AUTHOR of the 'Sketches of the Life of Greene.' Charleston, S. C. 8vo. pp. 37.

2. *A Reply to Judge Johnson's Remarks on an Article in the North American Review, relating to Count Pulaski.* By PAUL BENTALOU; Author of 'Pulaski Vindicated.' Baltimore. 8vo. pp. 41.

WE know of few authors more unfortunate than Judge Johnson, or whose case more sincerely deserves the commiseration of the friends of letters, and the patrons of literary enterprise. It is now about four years since he published his great work, entitled 'Sketches of the Life of General Greene,' in two quarto volumes, and in a style of typography much above the common standard of American printing. For such an effort as this, at once to illustrate a most important portion of American history, and encourage the arts, the author very naturally flattered himself, that he should meet with the applause of his countrymen. But from his own account, in his later writings, it would seem, that no man's expectations were ever more sadly disappointed. His hopes, so fresh and strong at first, have been withered in the bud, and have shrunk away from the chilling breath of public disfavor. The gantlet of authorship was never before run with so much peril, nor terminated with such disastrous consequences. D'Israeli himself would be puzzled to find matter for a more copious chapter of miseries.

The author complains of being attacked from all quarters; newspapers, pamphlets, periodical journals, and formidable volumes, have teemed with censures upon his work, and this not